THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32970 of 1998

Dated : 19.04.2007

Between:

Tangudu Sambamurthy S/o late Jangamaiah and others.

… **PETITIONERS**

And:

The District Collector, Srikakulam and others.

….**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.32970 of 1998

ORDER:

Petitioners are all landsless poor persons. They claim to have purchased certain extents of lands in various survey numbers situated a t Kasibugga village, Palasa Mandal in Srikakulam District from its owners, and thereafter most of them alleged to have constructed pucca houses and others have raised thatched sheds, and thus are living therein and eking out their livelihood. Petitioners stated to be in possession of the said lands long prior to the year 1977. On their applications, the authorities concerned also provided electrical connections and they also have been paying property tax to the Gram Panchayat. While so, several times the revenue authorities have initiated proceedings under the Andhra Pradesh Lands Encroachment Act, 1905, and accordingly notices were issued to them. However, the petitioners made representations requesting the authorities to regularize the lands in their occupation, in vain. Be that as it may, the

Government of Andhra Pradesh issued G.O.Ms.No.508 Revenue (Assignment.I) Department, dated 20.10.1995, for regularization of encroachment by way of dwelling houses on Government lands in certain areas on payment of market value. Pursuant to the said Government Order, the first respondent issued instructions to the third respondent to collect the market value of the lands for regularization of the lands in occupation of encroachers, upon which, the third respondent issued notices dated 16.03.1997 directing the petitioners and others to pay the market value of the lands at the rate of Rs.430/- per square yard for the purpose of regularizing the lands encroached by them, in terms of G.O.Ms.No.508 dated 20.10.1995. Thereupon, petitioners made a representation stating that they are ready to get the lands regularized on payment of amount, but pleaded that the amount of Rs.430/- per square yard as fixed by the third respondent in terms of G.O.Ms.No.508 dated 20.10.1995 is on high side. The said representation was considered and rejected by the first respondent stating that the amount of Rs.430/- per square yard as fixed by the third respondent is in conformity with the existing market value. At that juncture, they filed the present writ petition.

A detailed counter is filed wherein it is stated that the lands in Sy.Nos.217/1, 217/3, 217/31, 207/2 and 219 situated at Kasibugga village are Government lands and the petitioners, without any right whatsoever, have illegally occupied the same and have constructed houses thereon. According to the respondents, the income of the petitioners and other encroachers is more than Rs.10,000/- and hence, the Government has taken a decision to collect the market value from the petitioners and others for the purpose of regularization of the lands in their occupation.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue (Assignment).

While issuing rule nisi, this Court directed the respondents not to dispossess the petitioners from the lands in their occupation and further directed the petitioners to deposit an amount of Rs.150/- per square yard in respect of the entire area in their respective occupation, within a period of three months from 26.11.1998, before the third respondent.

Though as stated above, a detailed counter is filed, no where it is stated as to whether the possession of the petitioners is of recent origin or long prior to 1977, as contended by the petitioners. Hence, this Court has no option but to accept the contention of the petitioners that they are in possession of the lands long prior to 1977. When evidently petitioners are in possession of the lands belonging to the Government since 20 years prior to the date of issuance of notice in the year 1997, it is not known as to what the Government was doing for all these years. No doubt, the petitioners are encroachers, but at the same time it is to be seen that on their own volition they have come forward to pay the amount for the lands. Merely because the petitioners came forward to pay the amount for the lands, it does not mean that the Government should fix up the value at the market value existing as on that day. In fact, the avowed policy of the Government is to provide house sites to weaker sections of the society, etc. Evidently, most of the petitioners are petty vendors and others are all agriculturists eking out their livelihood by attending to their agricultural operations or cultivation, and expecting market value of the lands from those persons, in my considered view, cannot be the avowed policy of the Government. Hence, this Court is of the view that the first respondent ought to have considered the representation made by the petitioners for considering their cases for fixing up the value of the lands occupied by them.

Further, according to the petitioners, as per the direction of this Court most of the petitioners deposited an amount of Rs.150/- per

square yard before the third respondent. Therefore, this court directs the petitioners to pay the value of the lands at Rs.220/- per square yard within three months from the date of receipt of a copy of this order, and on such payment, the respondents are directed to regularize the lands in the respective occupation of the petitioners. It is needless to say that the amount of Rs.150/- per square already paid by the petitioners shall be deducted from out of the said amount of Rs.220/-.

Subject to the above directions, the writ petition is allowed. There shall be no order as to costs.

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19.04.2007

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